



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 350

[Docket No. FMCSA-2022-0079]

State Inspection Programs for Passenger-Carrier Vehicles

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Confirmation of withdrawn advance notice of proposed rulemaking.

SUMMARY: FMCSA confirms its May 1, 2017, decision to withdraw its April 27, 2016, advance notice of proposed rulemaking (ANPRM) concerning the establishment of requirements for States to implement annual inspection programs for commercial motor vehicles (CMVs) designed or used to transport passengers (passenger-carrying CMVs). On November 15, 2021, the Infrastructure Investment and Jobs Act (IIJA) was enacted, directing FMCSA to solicit additional comment on the 2016 ANPRM. The Agency solicited additional comments for 30 days, ending June 9, 2022. After reviewing the additional public comments received, FMCSA has determined there is not enough data and information available to support moving forward with a rulemaking action.

DATES: FMCSA confirms the withdrawal of the ANPRM as of [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ms. Sarah Stella, Chief, Regulatory Development Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, (202) 493-0192, Sarah.Stella@dot.gov. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Background

On April 27, 2016, in accordance with section 32710 of the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112-141, 126 Stat. 405, 815), FMCSA published in the *Federal Register*, an ANPRM titled “State Inspection Programs for Passenger-Carrier Vehicles” (Docket No. FMCSA-2014-0470, 81 FR 24769). The ANPRM announced that FMCSA was considering a requirement that States establish a program for annual inspections of passenger-carrying CMVs. FMCSA requested information from all interested parties that would enable the Agency to assess the risks associated with improperly maintained or improperly inspected passenger-carrying CMVs. The ANPRM also sought public comments concerning the effectiveness of the current FMCSA annual inspection standards, and data on the potential costs and benefits of a Federal requirement for each State to implement a mandatory inspection program. FMCSA inquired about how the Agency might incentivize States to adopt such programs.

The comment period closed on June 27, 2016, and 22 comments were received, with a plurality (10 of 22) of commenters expressing general opposition to the mandatory State inspection requirement discussed in the ANPRM. After reviewing all the public comments, FMCSA determined there was not enough data and information available to support moving forward with a rulemaking action. As a result, on May 1, 2017, the Agency withdrew the ANPRM.¹ (82 FR 20311)

On November 15, 2021, the IIJA was enacted, Pub. L. 117-58, 135 Stat. 429 (H.R. 3684, Nov. 15, 2021). Section 23008(a) directed the Agency, within 1 year after the date of enactment, to solicit additional comments on the ANPRM to determine if data and information exist to support moving forward with a rulemaking. The Agency published the request for additional comments on May 10, 2022. (87 FR 29781) The comment period closed on June 9, 2022.

¹ The ANPRM and the ANPRM withdrawal are available in the docket for this action.

Discussion of Comments

The Agency received 21 public comments, with 9 commenters expressing general opposition to the mandatory State inspection requirement discussed in the 2016 ANPRM. Four commenters supported the establishment of such a requirement and the remaining commenters neither wholly supported nor opposed a possible requirement. Many commenters indicated that the existing standards for annual inspections prescribed in the Federal Motor Carrier Safety Regulations, or their own programs, were sufficient. Commenters also indicated that current standards are effective at mitigating risk when properly enforced. Several commenters made their support contingent on factors such as uniformity in inspection standards, standardization of inspector training, a self-inspection option, and required reciprocity, whereby States would be required to recognize inspections conducted outside their States.

Many commenters, including State agencies in Arizona, Kentucky, Minnesota, Montana, New York, Virginia, and Wisconsin, addressed questions aimed at measuring the effectiveness of inspection programs. However, none of these commenters was able to determine whether the establishment of an inspection program reduced the number of safety violations detected.

Several commenters suggested that FMCSA incentivize States to establish mandatory inspection programs by providing Federal funding. The American Association of Motor Vehicle Administrators, the Commercial Vehicle Safety Alliance, and the Kentucky Transportation Cabinet noted that a mandate would be a strain on States' resources, particularly considering the ongoing financial challenges associated with the coronavirus disease 2019 pandemic.

FMCSA Decision

After considering all the comments, FMCSA has concluded that the rationale for withdrawal of the 2016 ANPRM remains sound. The Agency is not aware of any new

data or information that supports the development of a notice of proposed rulemaking to require the States to establish mandatory annual inspection programs for passenger-carrying vehicles. FMCSA therefore confirms withdrawal of the 2016 ANPRM referenced above. The concerns and recommendations of all the commenters will be considered if any new proposed regulations regarding annual inspections of passenger-carrying CMVs are developed.

Issued under authority delegated in 49 CFR 1.87.

Robin Hutcheson,
Administrator.

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